



#23

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

IN RE APPLICATION OF:)
)
JOEL E. HAYNES)
)
SERIAL NO.: 08/972,477)
)
FILED: NOVEMBER 18, 1997) GROUP ART UNIT NO. 3754
)
TITLE: POSITIVE DISPLACEMENT)
VOLUMETRIC RATIO)
BEVERAGE DISPERSING)
APPARATUS)
)
)
EXAMINER: JOSEPH A. KAUFMAN)

PETITION TO REVIVE AN ABANDONED PATENT APPLICATION

Commissioner of Patents
and Trademarks
Washington, D.C. 20231

Sir:

The applicant received, on August 14, 2002, a Notice of Abandonment of an abandoned patent application. Incidentally, it is noted that the notice was mailed August 28, 2001, but was never received in the undersigned attorney's office until a copy was mailed by the Examiner. A copy of the Notice of Abandonment showing the date stamp on which it was received in this office is attached hereto.

This is the second abandonment of an application to the same applicant. The first abandonment arose through failure of applicant's undersigned attorney to receive, through the U.S. mails, a copy of an Office Action. Upon submitting a request to

withdraw the abandonment, the application was revived. A copy of an Office Action in the earlier, or parent, application was submitted to a Jack Monroe, who is not an attorney of record. In about August of 1998, the applicant's undersigned attorney filed a revocation of previous power of attorney and appointment of new attorney. Notwithstanding, even in a status letter inquiring about the status of this application filed on June 8, 1999, the applicant again identified the new attorney of record.

This is now another abandonment of an application of this applicant, and again, without any failure or omission on the part of the applicant or its undersigned attorney. Consequently, the error which arose was believed to be a result of action or inaction in the U.S. Patent and Trademark Office.

The delays in prosecution of this application have always been substantial, which may possibly have been a result of the size of the application. Nevertheless, the applicant nor his undersigned attorney were overly concerned about the status of the application for quite some time. However, it is to be noted that this application was filed in November 1997. Delays occasioned through the U.S. Patent and Trademark Office were not uncommon. The applicant did file a very extensive Amendment B in this application on March 8, 2001. In about mid-2000, perhaps about May of 2000, the applicant requested a Liliana Cancino of this office to contact the Examiner and attempt to determine the status of this

application. Ms. Cancino apparently forgot about that request and the undersigned attorney again prompted her in about July, to inquire about the status of this application. About the end of July 2002, Ms. Cancino did contact the U.S. Patent and Trademark Office and spoke with the Examiner. In accordance with the standard operating procedure, Ms. Cancino prepared a memo to file and which, in this case, is most revealing. A copy of that memo is attached hereto.

The Advisory Action dated March 21, 2001, was never received in this office. Apparently, this Office Action was mailed to the former attorney of record, notwithstanding the fact that a power of attorney had been filed with the Office, requesting all communications with this office. The firm which previously received any communication from the Office apparently did not forward same to this office. Consequently, no response was filed to that Office Action dated August 21, 2001. In addition, this office had never received a Notice of Abandonment which was mailed on August 28, 2001.

We have carefully examined the files in this office relating to Joel Haynes, and examined this particular file for this application in detail. There is no copy of that Office Action of March 21, 2001, or a copy of a Notice of Abandonment dated August 28, 2001.

Upon being advised of the status of this application, the undersigned attorney immediately met with the applicant to decide upon a course of action. The applicant, out of sheer frustration, recommended that he takes only the allowed claims and cancel any claims which have been rejected.

Inasmuch as the application was under a final rejection, the applicant is contemporaneously submitting herewith as a responsive document, a request to file a Continued Prosecution Application (CPA) under 37 CFR 1.53(d).

Inasmuch as there has been continued delay in the prosecution of this application without any fault on the part of the applicant or his undersigned attorney, it is believed that this application should be revived. Moreover, it is believed that no fee therefor is required, since the applicant's undersigned attorney never received either the Office Action of March 21, 2001, or the Notice of Abandonment dated August 28, 2002.

This applicant has been endeavoring to prosecute this application and is literally losing valuable time on the life of any patent to mature from this application. It is therefore urged

that the U.S. Patent and Trademark Office treat this petition expeditiously and revise this application so that the latter may proceed to issue.

Dated: Aug 22, 2002

Respectfully submitted,

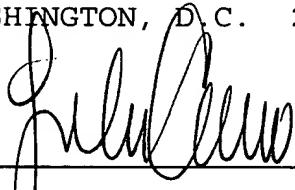


ROBERT J. SCHAAP
Registration No. 20,577
Attorney for Applicant
(818) 346-6555

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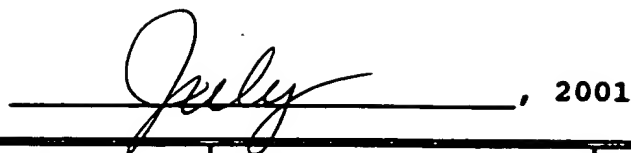
CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service as First Class Mail in an envelope addressed to: COMMISSIONER OF PATENTS AND TRADEMARKS, WASHINGTON, D.C. 20231 on Aug. 27, 2002.


(Signature)

Date of Signature: Aug. 27, 2002

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BEVERAGE DISPERSING)
APPARATUS)
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EXAMINER: JOSEPH A. KAUFMAN)

DECLARATION OF ROBERT J. SCHAAP

Commissioner of Patents
and Trademarks
Washington, D.C. 20231

Sir:

NOW COMES ROBERT J. SCHAAP, and states and declares as follows:

That to the best of my knowledge and belief, we have never received in this office a copy of the Advisory Office Action dated March 21, 2001, or the Notice of Abandonment dated August 28, 2001, through the U.S. Mails or by any other means, other than upon recent request to the Examiner. In about May of 2002, I requested Liliana Cancino of this office to determine the status of the application, since we had not heard anything from the U.S. Patent and Trademark Office. Substantial delays in this application were common. Exemplary, is the fact that an Office Action was issued

July 20, 1999, and a further Office Action was not issued in April of 2000.


The undersigned has previously contacted the U.S. Patent and Trademark Office about the status of this application, and again, in March 1999, having submitted a status letter.

I do know that it was never the applicant's intent to abandon this application, and no intent of this office to ever let this application become abandoned. If the Advisory Action had been received, prompt action would have been immediately taken.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application, any patent issuing thereon, or any patent to which this declaration is directed.

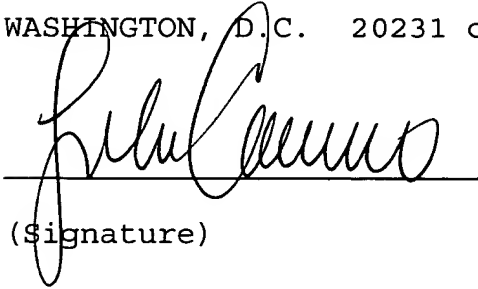
Dated: Aug 22, 2002

Respectfully submitted,


ROBERT J. SCHAAP
Registration No. 20,577
Attorney for Applicant
(818) 346-6555

CERTIFICATE OF MAILING

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(Signature)

Date of Signature: Aug. 27, 2002

D:\Data\Haynes\Declaration of Robert J. Schaap

URGENT

8/14/02

About the end of July 2002 I had contacted examiner Kaufman in regards to status on Joel Haynes application serial no. 08/972,477. I called him again on 8/13/02 and spoke with him on 8/14/02. He stated that he has been out of town for the past couple of weeks that is why he had not returned my calls. I told him what was the status of the application and he stated that it had become abandoned failure to respond to an office action dated 3/21/01 I states to him that we had never received such office action or notice of abandonment. He then said let check the address and then said the advisory action was sent to Kinney and Lang. I told him we filed a power of attorney and he said it can always be possible at the PTO that the ways thing work it can still be possible to be sent to the prior attorney for Haynes application. The notice of abandonment was mailed on 8/28/01 giving us only a week in a half to file a petition to revive.



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APPARATUS)
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EXAMINER: JOSEPH A. KAUFMAN)

DECLARATION OF LILIANA CANCINO

Commissioner of Patents
and Trademarks
Washington, D.C. 20231

Sir:

NOW COMES LILIANA CANCINO, and states and declares as follows:

That I work in the office of Robert J. Schaap and have been employed in this office for approximately four years.

As part of my duties, on a daily basis, I walk to the mail room of the office building in which we are located, since all mail is delivered to that mail room. Mail is placed in a separate compartment allocated for this office, and I will pick up the mail in that compartment and deliver same to this office. When the mail is received, I docket the mail and docket any matters requiring response, and give a copy of that document to the secretary of Mr. Schaap, namely, Pauline Barraza. She similarly makes an entry in

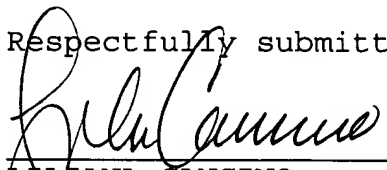
her docket book. We also initial each Office Action which is received and, as an example, enclosed is a photocopy of the Office Action dated November 3, 2000, which identifies the date in which a response is due and is initialed by both Mr. Schaap's secretary and myself.

I do know that we have never received a copy of the Advisory Office Action dated March 8, 2001, or the Notice of Abandonment dated August 28, 2001. Otherwise, I would have brought the matter to Mr. Schaap's attention. I know that he would have immediately taken some action.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application, any patent issuing thereon, or any patent to which this declaration is directed.

Dated: Aug. 27, 2002

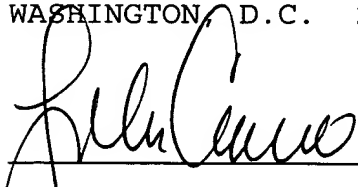
Respectfully submitted,



LILIANA CANCINO

CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service as First Class Mail in an envelope addressed to: COMMISSIONER OF PATENTS AND TRADEMARKS, WASHINGTON, D.C. 20231 on Aug. 27, 2002.


(Signature)

Date of Signature: Aug 27, 2002

D:\Data\Haynes\Declaration of Liliana Cancino



**UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office**

Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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08/972,477 11/18/97 HAYNES

J C196.012-006

ROBERT J. SCHAAP
21241 VENTURA BOULEVARD
SUITE 188
WOODLAND HILLS CA 91364

QM02/1103

EXAMINER

KAUFMAN, J

ART UNIT	PAPER NUMBER
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3754

DATE MAILED:

11/03/00

2/3/2001 (12)
2/3/01 (2)

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

RE

NOV 22 2000

R.J. SCHAAP

Attachment(s)

- ☐ Notice of References Cited, PTO-892
- ☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____
- ☐ Interview Summary, PTO-413
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---